

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

AT&T MOBILITY LLC,

Plaintiff,

v.

T-MOBILE USA INC.,

Defendant.

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Civil Action No. 4:22-CV-00760

JURY TRIAL DEMANDED

PLAINTIFF'S COMPLAINT

Plaintiff AT&T Mobility LLC ("AT&T") files this Complaint against Defendant T-Mobile USA Inc. ("T-Mobile") and states as follows:

SUMMARY

1. Competition in the telecommunications industry is fierce, particularly among companies that offer wireless service plans to keep us connected to the Internet and each other.

2. Wireless companies like AT&T and T-Mobile compete for wireless customers from a base of consumers that rightfully demands high-quality service at low prices. As a result, wireless carriers invest aggressively in their networks while offering an array of service plans, promotions, and discounts designed to appeal to a wide variety of consumers. They also advertise their services, often comparing their products and prices with those of their competitors.

3. Competition on the merits benefits consumers, and since the dawn of the wireless age, AT&T has successfully built a base of wireless customers that now numbers

over 200 million wireless connections. But what wireless carriers *cannot* do is lie to consumers about a competitor's services. False statements that deceive the public to the detriment of a competitor violate federal law.

4. Unfortunately, that is exactly what T-Mobile is doing in a new advertising campaign that is intentionally designed to deceive senior citizens.

5. T-Mobile's new advertising campaign can be found at T-Mobile's new website, "BannedSeniors.com," where T-Mobile claims:



Verizon and AT&T Ban Senior Discounts

92% of seniors in the U.S. can't get a wireless discount from Verizon or AT&T because they don't live in Florida. 92%!! The Un-carrier is here to help.

6. The website's headline boldly proclaims, without any factual support, that AT&T *bans* senior discounts.

7. T-Mobile further claims that "92% of seniors in the U.S. can't get a wireless discount" from AT&T because they "don't live in Florida," and that the only ways for customers aged 55 or older to get a discounted wireless plan are to (1) move to Florida, (2) obtain a Florida address, or (3) *switch to T-Mobile*.

8. Each one of these claims is literally false.

9. AT&T does not "ban" senior discounts in any way, shape, or form.

10. To the contrary, AT&T offers discounts to senior citizens on their wireless service. For example, through AARP, AT&T offers millions of seniors across *every state* discounts on monthly service charges and activation fees.

11. T-Mobile's false statements about AT&T's services are designed to deceive senior citizens. Notwithstanding T-Mobile's false statements otherwise, AT&T offers discounts to senior citizens in *all* states. They do not have to live in Florida. They do not have to move to Florida. And they do not have to switch to T-Mobile in order to obtain discounts.

12. AT&T files this action for damages and injunctive relief to stop T-Mobile's false advertising.

PARTIES

13. Plaintiff AT&T Mobility LLC is a Delaware corporation with its principal place of business in Atlanta, Georgia.

14. Defendant T-Mobile USA Inc. is a Delaware corporation with its principal place of business in Bellevue, Washington. T-Mobile is registered to do business in the State of Texas and can be served with process through its registered agent, Corporation Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701.

JURISDICTION AND VENUE

15. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this case arises under the laws of the United States—specifically, the Lanham Act.

16. This Court has personal jurisdiction over T-Mobile because it is registered to do business in the State of Texas and does business in the State of Texas.

17. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to AT&T's claims occurred in this district. T-Mobile's nationwide marketing and advertising—including the false and misleading advertisements that are the subject of AT&T's claims—are intended to reach and likely have reached consumers in this district. Additionally, according to its website, T-Mobile operates numerous stores at various locations throughout this district, which stand to gain—or are gaining—from T-Mobile's unlawful conduct.

FACTUAL BACKGROUND

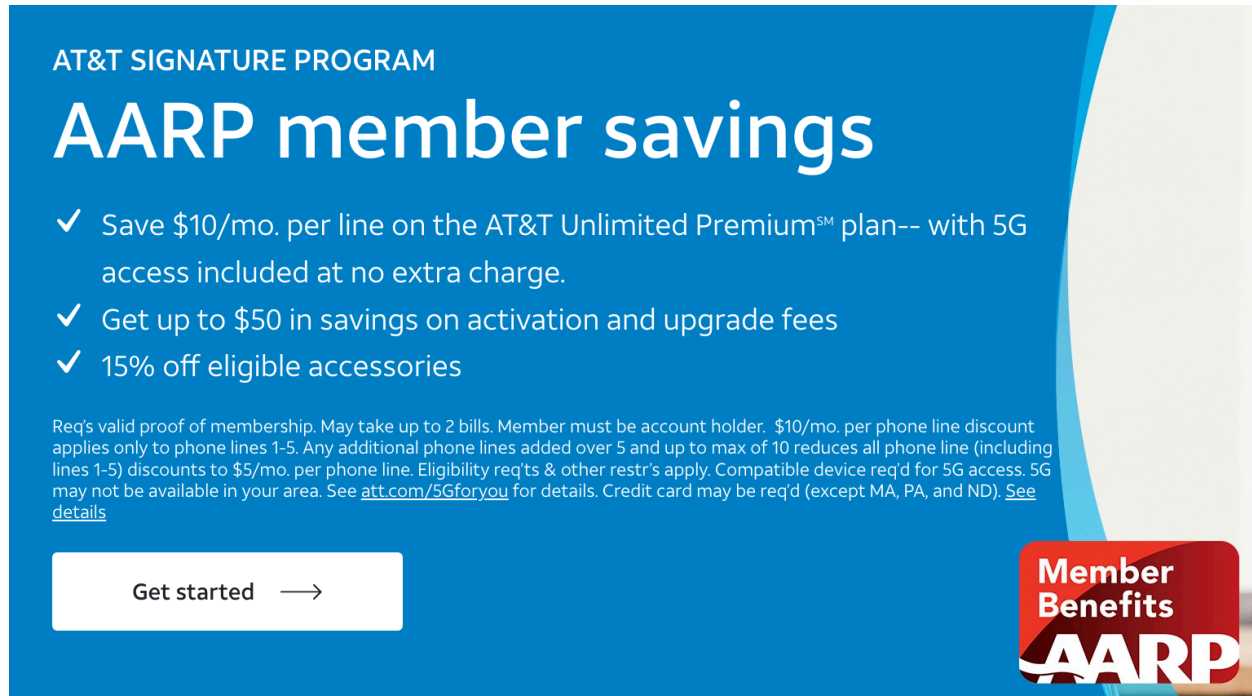
18. AT&T and T-Mobile are competitors in the wireless communication industry.

19. On August 30, 2022, T-Mobile issued a press release launching its new advertising campaign directed at senior citizens that disparages AT&T through false advertising.

20. To entice senior citizens to switch to T-Mobile, T-Mobile created the website “BannedSeniors.com.” On this website, T-Mobile claims that “Verizon and AT&T Ban Senior Discounts” and that “92% of seniors in the U.S. can't get a wireless discount from Verizon or AT&T because they don't live in Florida.”

21. These claims are literally false. AT&T has not “banned” seniors from getting discounted wireless service outside the state of Florida. To the contrary, AT&T offers

discount programs that are available in every state to customers over the age of 55. For instance, AT&T offers and markets a discount program in partnership with the AARP:



AT&T SIGNATURE PROGRAM

AARP member savings

- ✓ Save \$10/mo. per line on the AT&T Unlimited PremiumSM plan-- with 5G access included at no extra charge.
- ✓ Get up to \$50 in savings on activation and upgrade fees
- ✓ 15% off eligible accessories

Req's valid proof of membership. May take up to 2 bills. Member must be account holder. \$10/mo. per phone line discount applies only to phone lines 1-5. Any additional phone lines added over 5 and up to max of 10 reduces all phone line (including lines 1-5) discounts to \$5/mo. per phone line. Eligibility req'ts & other restr's apply. Compatible device req'd for 5G access. 5G may not be available in your area. See att.com/5Gforyou for details. Credit card may be req'd (except MA, PA, and ND). [See details](#)

Get started →

Member Benefits
AARP

22. The AARP is an interest and advocacy group serving the 50+ population. With nearly 38 million members, it is “by far the nation’s largest nonprofit, nonpartisan organization dedicated to empowering people 50 and older to choose how they live as they age.”¹ Multiple websites compiling wireless discount options for senior citizens list AT&T’s AARP discount program.² The Forbes Health article “Best Senior Cell Phone Plans of 2022” includes “AT&T Senior Cell Phone Plans” and lists AT&T’s AARP discount program.³

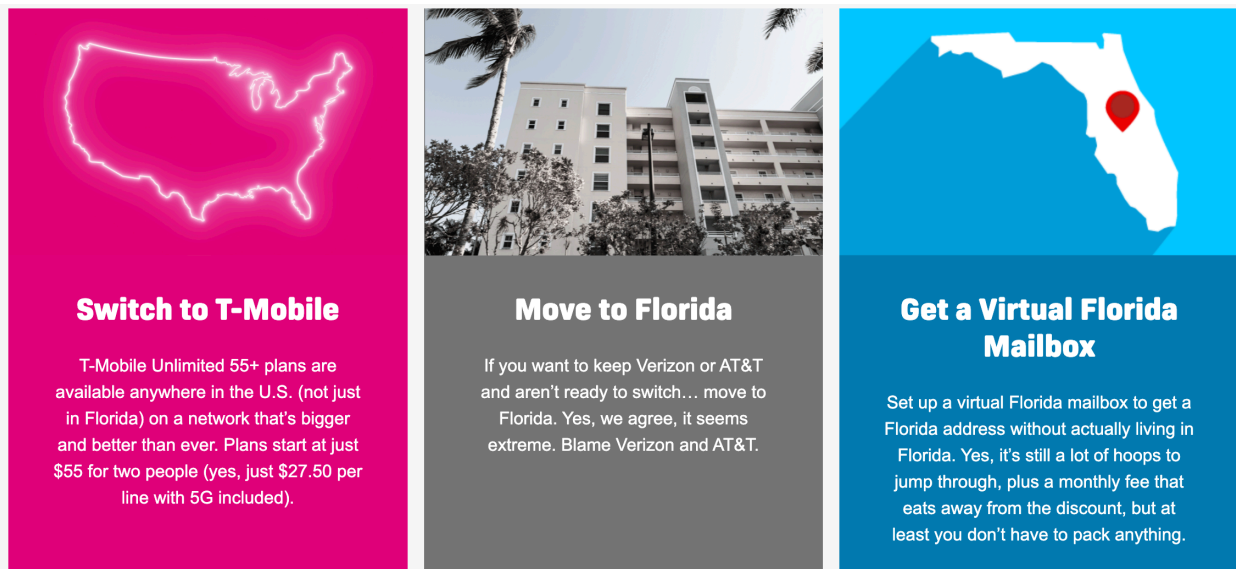
¹ AARP 2020 Annual Report, *available at* https://www.aarp.org/content/dam/aarp/about_aarp/annual_reports/2021/2020-aarp-annual-report.pdf.

² See, e.g., “AT&T Senior Discounts,” TheSeniorList, *available at* <https://www.theseniorlist.com/senior-discounts/cell-phone/att/>; “AT&T Cell Phone Plans for Seniors 2022,” Senior Living, *available at* <https://www.seniorliving.org/cell-phone/att/>.

³ “Best Senior Cell Phone Plans of 2022: Coverage, Cost and Features,” Forbes Health, *available at* <https://www.forbes.com/health/healthy-aging/best-cell-phone-plans-for-seniors/>.

23. AT&T's AARP discount program is available to AT&T customers nationwide. T-Mobile's claims that AT&T has "banned" senior discounts outside of Florida and does not offer discounts to 92% of seniors are false.

24. T-Mobile's "BannedSeniors.com" website also contains graphics making additional false claims. In one graphic, T-Mobile claims that consumers can "get around" "AT&T's ludicrous practices" with "three ways to get a 55+ discount":



This graphic falsely conveys that these are the only three ways for customers over 55 to get discounted wireless service with AT&T. In actuality, AARP's millions of members can receive discounted wireless service from AT&T without switching to T-Mobile, moving to Florida, or getting a virtual mailbox in Florida.

25. T-Mobile's "BannedSeniors.com" website also displays a graphic of comparative maps conveying the false message that Florida is the only state in which AT&T customers over 55 can receive discounted wireless service:

Looking for a 55+ Discount?

T-Mobile offers discounted 55+ plans all across the country. Verizon and AT&T? Not so much.



Contrary to this false claim, customers over 55 can receive discounted wireless service from AT&T in all 50 states through AT&T's AARP discount program.

26. T-Mobile's false and misleading ad campaign has caused and continues to cause harm to AT&T and consumers. The "BannedSeniors.com" website is available on the internet to consumers nationwide. T-Mobile's false claims are designed to cause and are likely to cause consumers over the age of 55 to choose wireless service with T-Mobile instead of AT&T or another carrier. Because T-Mobile's false and misleading claims are causing irreparable harm to AT&T, AT&T seeks damages and injunctive relief to stop T-Mobile's ongoing false advertising in violation of the Lanham Act.

CAUSE OF ACTION

FALSE ADVERTISING UNDER THE LANHAM ACT (15 U.S.C. § 1125(a))

27. AT&T incorporates by reference the preceding paragraphs as if fully set forth herein.

28. T-Mobile has made false and misleading descriptions and representations of fact in its commercial advertising and promotion concerning the nature, characteristics, and

qualities of its and AT&T's goods, services, and commercial activities in violation of Section 43(a) of the Lanham Act.

29. T-Mobile's false and misleading descriptions and representations of fact have deceived and are likely to deceive consumers into, among other things, purchasing services from T-Mobile instead of AT&T, unfairly and unlawfully shifting income and profit from AT&T to T-Mobile.

30. T-Mobile's false and misleading statements about its own and AT&T's goods, services, and commercial activities have damaged AT&T's goodwill and reputation and are likely to impact AT&T's sales.

31. AT&T has been and will likely continue to be damaged by T-Mobile's false and misleading representations in an amount to be determined at trial.

32. By reason of the foregoing acts, T-Mobile has caused and, unless restrained and enjoined, will continue to cause irreparable harm to AT&T. Additionally, AT&T has no adequate remedy at law. Pursuant to 15 U.S.C. § 1116, AT&T is entitled to preliminary and permanent injunctive relief prohibiting T-Mobile's ongoing false and misleading advertising.⁴

33. T-Mobile's conduct is willful, deliberate, intentional, and in bad faith. Accordingly, pursuant to 15 U.S.C. § 1117, AT&T is entitled to recover (a) T-Mobile's profits attributable to its false advertising, (b) the damages caused to AT&T by T-Mobile's false advertising, and (c) the costs and attorneys' fees incurred in this action.

⁴ Pursuant to Local Rule 65, AT&T is separately filing its Application for Preliminary Injunction.

JURY DEMAND

34. AT&T demands a jury trial on all claims in this Complaint on which a jury trial is available.

PRAYER

AT&T respectfully requests that the Court:

- i. award AT&T its actual compensatory damages;
- ii. order T-Mobile to disgorge all profits earned through its false advertising;
- iii. issue preliminary and permanent injunctive relief enjoining T-Mobile's ongoing false advertising campaign;
- iv. award to AT&T its reasonable costs and attorneys' fees; and
- v. grant to AT&T such further relief to which it is entitled.

Respectfully submitted,

By: /s/ Pete Marketos
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